HIGH COURT OF UTTARANCHAL AT NAINITAL.

First Appeal No. 992 of 2001
Old F.A.No. 121 of 1993

Collector, Dehradun.
… Defendant-**Appellant.**

Versus

Sri Jognu Son of Sri Gudru,
Resident of village Dhanpo, Pargana Jaunsar Bawar
Tehsil Chakrata, District Dehradun.
… Claimant-**Respondent.**

Sri Nand Prasad, learned standing Counsel for the appellant.
None appeared for the respondent.

Date April 18, 2006

Hon. B.S. Verma, J.

Heard Sri Nand Prasad on the application for condonation of delay. Grounds shown are sufficient. Delay is condoned. The Appeal is admitted

This appeal is directed against the judgment and award dated 24-7-1992 passed by III Additional District Judge, Dehradun In L.A. Reference No. 21 of 1986, Jognu Vs. Collector, Dehradun whereby the market value of the land under acquisition was determined and the respondent was allowed compensation of Rs. 5,950/- instead of Rs. 3750/- as held by Special Land Acquisition Officer along with solatium @ 30% and interest as mentioned in the impugned award. Accordingly, the reference was decreed for the amount of Rs. 3368/- with costs and interest @ 9% per annum. Aggrieved by the impugned order, the Collector has come up in appeal.

Relevant facts giving rise to the prestn appeal are that agricultural land meansuring 6.49 acrea belonging to different persons including the respondent-claimant forming part of Khata Nos. 1,2,9,10,12,14,6,15,11,3 and 3 situated at village Dhanpo

Gunat Khara Pargana Jaunsar Bawar, District Deharadun was acquired by the State Government for construction of Lakhwar Dam. Notification under Section 4(1) followed by Notification under Section 6 of the Land Acquisition Act was issued and published in the official Gazette. The Special Land Acquisition Officer (***for short the S.L.A.O.)*** classified the acquired land as un-irrigated Doyam, irrigated, Ijran and awarded compensation @ Rs. 12,500/- per acre. Since the claimants were not satisfied with the award, therefore, the matters were referred to the Reference Court, where as many as 14 L.A. reference were registered bearing L.A. Case nos. 8 of 1986 to 21 of 1986. The claimant has claimed compensation @ Rs. 2,55,000/- per acre for irrigated land. According to him, the S.L.A.O. has not properly determined the market value on the basis of the relevant sale-deeds.

The State resisted the reference by filing written statement and denied the allegations made by the claimant. It was contended that the market value of the land was determined on the basis of exemplar sale deed by which adjoining land of Nand Singh was sold at the rate of 12,500/- per acre and the sale deed represented proper market value of the land under acquisition. It was denied that the acquired land is situated by the side of motor road and has a very high potentiality.

On the pleadings of the parties, the learned Reference Court framed necessary issues in the case. In issue No.1 the point of market value of the acquired land was dealt with. The Reference Court after considering the entire evidence and perusing al the sale-transactions filed on record has held that keeping in view the fact that the area of un-irrigated and Ijran acquired land is quite small, the compensation was allowed treating the entire land under acquisition as irrigated land and market value of the acquired land was fixed @ compensation of Rs. 5950/- for 0.10 acre land instead of Rs.3750/- as awarded by S.L.A.O.

In support of the appeal, it has been contended that the finding of the Reference Court determining compensation @ Rs. 59,500/- is not based on evidence on record.

In this appeal, the respondent has preferred cross-objection for enhancement of the market value of the acquired land, but no one has appeared to press the cross-objection filed on behalf of the respondent.

I have heard Sri Nand Prasad, learned Standing Counsel for the appellant and have perused the entire material on record.

It has been argued on behalf of the appellant that the S.L.A.O. was justified in awarding compensation at the rate of Rs. 37,500/- per acre for the first quality of land and @ Rs. 12,500/- for second quality of land under acquisition.

Before the Reference Court, witnesses Lal Singh (P.W.8) and Shiv Singh (P.W.7) have deposed that the exemplar sale deed relied upon by the S.L.A.O. did not represent the proper market value. They have specifically stated that sale deed of Nanda Singh was executed in favour of Executive Engineer III Lakhwar Colony. It was stated by the witnesses that Nanda Singh had taken a contract for the construction of road from the irrigation department, therefore, he executed the sale-deed at a low price. Finding this averment to be reliable, the Reference Court was of the view that the sale deed of Nanda Singh cannot be made the basis for assessment of market value. The Reference Court at page 15 of its judgment has observed as under:-

"The saledeed dated 6.7.1982 (paper no. 15-C) which is a sale between the private parties and relates to land situated not far off from the acquired land is the best exemplar to form the basis of assessment of market value of the land in question. The

only exception is that the land transferred under the said saledeed was of a smaller plot of un-irrigated 0.04 acre land, therefore, reduction at the rate of 30% as observed above is permissible. In this was the market value of the acquired land of the petitioners comes to Rs. 59,500/- per acre."

From a bare perusal of the impugned judgment of the Reference Court it is evident that the Reference Court has assigned cogent reasons for not accepting the market value determined by the S.L.A.O. and it has also discussed all the sale transactions relied upon by the claimants. In the body of the impugned judgment, both oral and documentary evidence led by the parties has been discussed. The Reference Court while determining the market value on the basis of the sale-transaction (paper no. 15-C) has made a deduction of 30% towards largeness of the acquired land as compared to small piece of land under the sale deed.

Having considered all the aspect of the case, I find that the Reference Court was justified in determining the market value of the acquired @ Rs 59,500/-. Out of total area of 6.49 acre land under acquisition, 6.35 acre land was irrigated, 0.03 acre unirrigated alnd and 0.11 acre was Ijran. Therefore, the reference court was fully justified in granting compensation for the entire land treating the same to be irrigated. No infirmity or illegality has been committed by the Reference Court in deciding the reference under appeal. There is no merit in the cross-objection of the respondent, which stands dismissed.

The appeal has no force and is liable to be dismissed.

The appeal is hereby dismissed. No order as to costs.

(B.S.Verma, J.)

RCP